

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
WESTERN DIVISION

KRYSTAL TILLMAN,

Plaintiff,

vs.

FAMILY DOLLAR STORES OF OHIO,
INC., ET AL.,

Defendants.

CASE NO. 3:21-CV-00123

JUDGE JAMES R. KNEPP, II

**RESPONSE TO PLAINTIFF'S
NOTICE AND CONSENT TO
DISMISSAL**

In response to Plaintiff's filing captioned as "**Notice of Plaintiff's Counsel that Amount in Controversy is Below the Amount of Seventy-Five Thousand as Per 28 U.S.C. Section 1332,**" which was filed as a "**Notice of Dismissal Under FRCP 41(a)(1) notice regarding amount in dispute is below \$75,000.00 filed by Krystal Tillman,**" (Doc. 11) (referred to herein as the "Doc. 11 Notice"), Defendant Family Dollar Stores of Ohio, Inc., by and through counsel, states as follows:

1. On March 1, 2021, Defense counsel contacted Plaintiff's counsel to inquire whether Plaintiff would be willing to stipulate that the amount in controversy does not exceed \$75,000. On the same date, in the afternoon, Plaintiff's counsel communicated to Defense counsel that Plaintiff would not stipulate to damages not to exceed \$75,000. Plaintiff's counsel indicated that his communication was subject to protection as "matters of settlement discussions." For this reason, Defendant will not attach the email to this filing but will provide it to the Court at the Court's request. (No matters of settlement discussions are disclosed in this *Response to Plaintiff's Notice and Consent to Dismissal*.)

2. With the filing of the Doc. 11 Notice, Plaintiff (or at least Plaintiff's counsel) has reversed the prior position and is now apparently willing to stipulate that the amount in controversy does not exceed the jurisdictional amount of \$75,000.
3. With the understanding that Plaintiff's the Doc. 11 Notice constitutes a stipulation as to the limitation of damages, Defendant does not object to the Court's dismissal of this case.
4. To the extent Plaintiff herself has not stipulated that the amount in controversy does not exceed \$75,000, then Defendant maintains that jurisdiction in this Court is proper and this Court may proceed with deciding Defendant's Motion to Dismiss based on expiration of the statute of limitations.

Respectfully submitted,

s/ Lidia B. Ebersole

Christopher E. Cotter (84021)

ccotter@ralaw.com

Roetzel & Andress, LPA

222 South Main Street

Akron, OH 44308

Main: 330.376.2700

Direct: 330.849.6756

Facsimile: 330.376.4577

And

Lidia B. Ebersole (90509)

lebersole@ralaw.com

Roetzel & Andress, LPA

One SeaGate, Suite 1700

Toledo, OH 43604

Telephone: 419.254.5260

Facsimile: 419.242.0316

ATTORNEYS FOR DEFENDANT
FAMILY DOLLAR STORES OF OHIO,
INC.

PROOF OF SERVICE

I hereby certify that on this 2nd day of March, 2021, a copy of the foregoing was filed electronically. Notice of this filing will be sent to all parties by operation of the Court's electronic filing system. Parties may access this filing through the Court's system.

s/ Lidia B. Ebersole

One of the Attorneys for Defendant Family
Dollar Stores of Ohio, Inc.